Decision for dispute CAC-UDRP-100482

Case number	CAC-UDRP-100482
Time of filing	2012-07-25 01:10:27
Domain names	ARCELORMITTALLTD.COM

Case administrator

Name	Tereza Bartošková (Case admin)

Complainant

Organization	ArcelorMittal

Complainant representative

Organization	Teissonnière Sardain Chevé A.A.R.P.I.

Respondent

Name	Ken Barry

OTHER LEGAL PROCEEDINGS

None that the Panel is aware of.

IDENTIFICATION OF RIGHTS

The Complainant is the proprietor of various trademarks, such as the word international trademark "ArcelorMittal" filed on March 8th, 2007 under number 947686 in classes 6, 7, 9, 122, 19, 21, 39, 40, 41, 42.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

ArcelorMittal has rights in the mentioned marks. “ArcelorMittal” is a well-known trademark. Complainant has spent substantial time, effort and money advertising and promoting “ArcelorMittal” throughout the world. As a result, “ArcelorMittal” has become distinctive and well-known and the company has developed an enormous amount of goodwill in the mark. The trademarks “ArcelorMittal”, “ARCELOR” and “MITTAL” are entirely reproduced in the disputed domain name.

The Respondent has no rights or legitimate interests in respect of the domain names (Policy, Paragraph 4 (a) (ii); Rules, Paragraph 3 (b) (ix) (2)). In the case at hand there is no evidence that the Respondent used the domain name but for a parking page website. This effectively shifts the burden to the Respondent to demonstrate rights or legitimate interests in the Domain Name.

With regard to the bad faith registration, when registering the disputed domain name, the Respondent was necessarily aware of the Complainant's well-known business and widespread reputation in its notorious trademarks. Clearly, such maneuver would not have been generated if the Respondent did not know the Complainant's activities or its official website.

Furthermore, the disputed domain name has been registered after the registration of the relevant above mentioned trademarks. Given the international reputation of the Complainant, by choosing to register and use the domain names which is confusingly similar to the Complainant's widely known and distinctive trademark "ArcelorMittal", "ARCELOR" and "MITTAL", the Respondent intended to ride on the goodwill of the Complainant's prior rights in an attempt to exploit Internet traffic destined for the Complainant.

A warning letter dated May 09, 2012 notifying Complainant's prior rights in the disputed domain name and requesting the domain name to be transferred has been sent to the Respondent and to the concerned Registrar. Although the Respondent received the e-mail and has also been notified by the Registrar about the Complainant´s claims he never replied. Furthermore, it results that the address provided by the respondent in the Whois database is unknown as the hardcopy of the warning letter has been sent back to the Complainant, which reinforces the bad faith of the Respondent.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i)of the Policy). The present Complaint is based on various trademarks, such as the word international trademark "ArcelorMittal" filed on March 8th, 2007 under number 947686 in classes 6, 7, 9, 122, 19, 21, 39, 40, 41, 42. Based on the fact that ArcelorMittal is the largest steel producing company in the world, "ArcelorMittal" is a well known trademark, in particular in the United Kingdom.

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the Domain Name (within the meaning of paragraph 4(a)(ii)of the Policy). The Respondent has never answered to warning letters of the Complainant or within this procedure. There are no other indications available which might justify the behaviour of the Respondent regarding possible rights or legitimate interests.

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the Domain Name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii)of the Policy). The Respondent never answered to any warning letter or within this procedure. His postal address is invalid so that warning letters never reached him. Apparently, he used the domain to ride on the goodwill of the Complainant´s prior rights in order to exploit internet traffic destined for the Complainant. There is no reason why he is using the disputed domain name as a pay-per-click-page; he is thus not acting bona fide.

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

The Panel finds that the disputed domain name is nearly identical and confusingly similar to the Complainant's trademark which is protected as an international mark and a community mark. The Complainant contends that the Respondent has made no use of, or demonstrable preparations to use, the domain name in connection with a bona fide offering of goods or services, is not making a legitimate non-commercial or fair use of the disputed domain names, and is not commonly known

under the disputed domain name.
In lack of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name. He has intentionally sought to use the Complainant´s marks in the disputed domain name to attract Internet users to websites for commercial gain. The website is used to redirect to parking pages and is thus likely to confuse the users or business partners as to the identity of the entity behind the domain name.
These facts, including the absence of a Response and the wrong postal address confirm that the domain name has been registered in order to create a likelihood of confusion for getting commercial gains.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **ARCELORMITTALLTD.COM**: Transferred

PANELLISTS

Name	**Thomas Hoeren**

DATE OF PANEL DECISION 2012-08-24

Publish the Decision